

Presentment Date and Time: October 1, 2020 at 12:00 p.m. (Eastern Time)
Objection Date and Time: September 28, 2020 at 12:00 p.m. (Eastern Time)
Hearing Date and Time (Only if Objections Filed): To Be Announced

CONDON & FORSYTH LLP

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

P8H, INC. d/b/a PADDLE 8,

Debtor,

Case No.: 20-10809 (SMB)

Chapter 11

**NOTICE OF PRESENTMENT OF STIPULATION AND ORDER BETWEEN THE
CHAPTER 11 TRUSTEE, THE UNSECURED CREDITOR COMMITTEE, AND
VALENTINE UHOVSKI TO PERMIT INSURER TO PAY DEFENSE COSTS OF
VALENTINE UHOVSKI COVERED BY DEBTOR'S INSURANCE POLICY**

PLEASE TAKE NOTICE that the undersigned will present the annexed stipulation and order (the "Stipulation and Order") to the Honorable Stuart M. Bernstein, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), at One Bowling Green, New York, New York, 10004, Room 723 for approval and signature on **October 1, 2020** at 12:00 p.m. (Prevailing Eastern Time).

PLEASE TAKE FURTHER NOTICE, that any responses or objections ("Objections") to the Stipulation and Order shall be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York, shall be filed with the Bankruptcy Court (a) by attorneys practicing in the Bankruptcy Court, including attorneys admitted pro hac vice, electronically in accordance with

General Order M399 (which can be found at www.nysb.uscourts.gov), and (b) by all other parties in interest, on a CD-ROM, in text searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and shall be served in accordance with General Order M-399, so as to be so filed and received no later than September 28, 2020 at 12:00 p.m. (Eastern Time) (the “Objection Deadline”).

PLEASE TAKE FURTHER NOTICE that, if a written objection is timely filed and served with respect to the Stipulation and Order, a hearing (the “Hearing”) will be held to consider such Stipulation and Order before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, Courtroom 723, One Bowling Green, New York, New York, 10004-1408 on a date to be announced.

Dated: September 9, 2020
New York, New York

CONDON & FORSYTH LLP

/s/ Joseph E. Czerniawski

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UNITED STATES BANKRUPTCY COURT
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In re:

P8H, INC. d/b/a PADDLE 8,

Debtor,

Case No.: 20-10809 (SMB)

Chapter 11

**STIPULATION AND ORDER AMONG THE CHAPTER 11 TRUSTEE, THE
UNSECURED CREDITORS COMMITTEE, AND VALENTINE UHOVSKI TO PERMIT
INSURER TO PAY DEFENSE COSTS OF VALENTINE UHOVSKI COVERED BY
DEBTOR'S INSURANCE POLICY**

WHEREAS on March 16, 2020 (the "Petition Date") P8H, INC. d/b/a PADDLE 8 (the "Debtor") filed a voluntary petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York; and

WHEREAS on May 1, 2020, the Official Committee of Unsecured Creditors of the Estate of the Debtor commenced an adversary proceeding against Uhovski, Docket No. 20-01081, alleging, *inter alia*, that he breached fiduciary duties that he owed to creditors (the "Adversary Proceeding Action"); and

WHEREAS, prior to the Petition Date, the Debtor, as insured, purchased a Management Liability Policy No. DOH021158466 (the "Insurance Policy") with a limit of liability for Directors' and Officers' coverage up to USD \$1,000,000 and no deductible. The Insurance Policy covers the Debtor and its directors and officers and, among other things, entitles the directors and officers to reimbursement of certain costs, charges, fees (including attorneys' fees and expert fees) and similar expenses incurred in connection with defending or investigating claims against the directors and officers (such costs, charges, fees and expenses, in each case as and to the extent reimbursable under the applicable insurance policy, "Defense Costs").

WHEREAS the Insurance Policy was issued by CFC Underwriting Limited (the “Insurer”). The Insurance Policy was effective from May 1, 2019 to May 16, 2020 (extended from May 1, 2020 by the Extension Endorsement) and Mr. Uhovski was the CEO of the Debtor from November 2019 to February 2020 and is insured pursuant to the Insurance Policy;

WHEREAS Mr. Uhovski has submitted the Adversary Proceeding Action to the Insurer as a claim under the Insurance Policy and, subject to a complete reservation of rights, the Insurer has agreed to advance Defense Costs on account of Mr. Uhovski to his counsel in relation to the Adversary Proceeding Action; and

WHEREAS, Megan E. Noh, as Chapter 11 Trustee of the Debtor, has no objection to the payment of Defense Costs to Uhovski’s counsel on the terms and conditions of this Stipulation.

It is hereby **STIPULATED AND AGREED** that this Court’s so-ordering of this stipulation reflects its approval of the Insurer’s payment of Valentine Uhovski’s Defense Costs in accordance with the Insurance Policy and this Stipulation. Insurer may make payments equaling eighty percent (80%) of the total of Uhovski’s Defense Costs based on the invoices submitted to the Insurer from Uhovski’s counsel during the course of the Adversary Proceeding and/or related proceedings; and

It is further **STIPULATED AND AGREED** that the Insurer shall hold back and reserve the remaining twenty percent (20%) of the value of the Defense Costs based on the invoices from Uhovski’s counsel during the course of the Adversary Proceeding and/or related proceedings (the “Reserved Defense Costs”); and

It is further **STIPULATED AND AGREED** that Uhovski’s counsel shall notify the Trustee when invoices are submitted for payment to the Insurer during the course of the Adversary Proceeding, and/or related proceedings, and inform the Trustee solely of the total amount of each invoice submitted to the Insurer; and

It is further **STIPULATED AND AGREED** that Uhovski's counsel may make an application to the Court at the conclusion of the Adversary Proceeding and/or related proceedings for final approval of all fees paid and for the payment of the Reserved Defense Costs, and such application will be brought on notice with an opportunity to be heard; and

It is further **STIPULATED AND AGREED** that the details of the process for the submission of such application to the Court by Uhovski's counsel for payment of the Reserved Defense Costs will be agreed upon by the undersigned counsel at a later date, but such agreement will provide appropriate protections for the preservation of legal privileges and confidentiality with regards to the invoices from Uhovski's counsel; and

It is further **STIPULATED AND AGREED** that the automatic stay is hereby modified pursuant to section 362 of the Bankruptcy Code to permit the Insurer to pay Defense Costs on account of Uhovski to his counsel in the Adversary Proceeding, pursuant to the terms and conditions of the Insurance Policy and this Stipulation.

Dated: New York, New York
September 9, 2020

**THE LAW OFFICES OF RICHARD J.
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*Counsel for Megan E. Noh, the Chapter 11
Trustee*

SO ORDERED:

Stuart M. Bernstein

United States Bankruptcy Judge